IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.748 OF 2004

Raman Savlaram Ragji. ...Petitioner.

Versus

State of Maharashtra & Ors. ...Respondents.

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Mr.P. G. Karande for the Petitioner.
Mr. R.M. Sawant, Govt. Pleader for Respondent No.1.
Dr.Virendra Tulzapurkar i/b. Doijode Phatarphekar for Respondent No.6.
Ms. S. Srikrishna i/b. M/s. Crawford Bayley for Respodent No.7.

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CORAM : DALVEER BHANDARI, C.J. &
DR. D.Y. CHANDRACHUD, J.

OCTOBER 27, 2004.

P.C.:

Styling himself as the founder President of a 'social organization' by the name of “Angry Youth”, the Petitioner has moved the Court in a Public Interest Litigation, inter alia, in his capacity as a graduate, drama artist and social worker. The Petitioner states that he was employed as a booking clerk in a Theatre known as “Barkha Theatre” and was engaged in activities as a leader of a Trade Union of employees working there. In these proceedings, the Petitioner

seeks the issuance of a writ of mandamus, directing the State Government and the Municipal Corporation to ensure that the Fourth, Fifth and Sixth Respondents start a mini theatre with a capacity of about 500 seats in the new building that has been constructed on Final Plot No.123 of TPS-III, J.K. Sawant Marg, Mahim, Mumbai. The Petitioner seeks an investigation into the sanction of the redevelopment proposal for the demolition of Barkha Theatre and an order for the recovery of lost revenue on account of non-receipt of entertainment tax from the mini theatre constructed in the place of the erstwhile Barkha Theatre. The Petitioner also seeks a direction that the use of the premises for an ATM Counter of the Eighth Respondent be stopped and that there be a restoration of the previous user as a booking office of a mini theatre.

2. Affidavits in reply have been filed in these proceedings on behalf of the Municipal Corporation, the State Government and by the Eighth Respondent . Having heard Counsel, we are of the view that the Petition which has purportedly been filed as a Public Interest Litigation does not warrant the exercise of the jurisdiction since it does

not constitute a bona fide recourse to the jurisdiction of this Court in the public interest.

3. The Petitioner was a booking clerk at Barkha Cinema which stood on land which has been leased out to the Fourth Respondent. The services of the Petitioner were terminated by the Fourth Respondent on 9th May 1987. The Petitioner filed a complaint of unfair labour practices before the Labour Court. By an order dated 12th May 1993, the Labour Court awarded compensation in the amount of Rs.1 lakh to the Petitioner. No orders of reinstatement were passed. The Petitioner and the Fourth Respondent filed revisions before the Industrial Court which by its order dated 1st September 1993 remanded the matter back to the Labour Court to reconsider the quantum of compensation. On remand, the Labour Court by its order dated 12th October 1993 quantified the compensation at Rs.30,000/-. The revision filed by the Petitioner was dismissed by the Industrial Court on 15th November 1994. A Writ Petition was filed before this Court being W.P. 61 of 1995 in order to challenge the orders dated 12th May 1993, 1st September 1993, 12th

October 1993 and 15th November 1994. While setting out these facts in the affidavit in reply, the Sixth Respondent has stated that it was brought on record in the aforesaid petition. The Petitioner filed a criminal complaint in 1998 under Section 500 of the Penal Code in the Court of the Additional Chief Metropolitan Magistrate, 9th Court at Bandra (Case No.231/S/96) against the owners of Manmala Exhibitors and the Sixth Respondent. On 27th March 1998, the petitioner is stated to have withdrawn the criminal complaint in lieu of a payment of Rs.7 lakhs to him by the Third Respondent. Pursuant thereto, consent terms were filed in the Writ petition whereby the Petitioner accepted the sum of Rs.7 lakhs in full and final settlement. In 2003, the Petitioner is stated to have taken out a Notice of Motion seeking an order restraining BPL Mobile Communication Ltd. from parting with the possession of or creating third party rights in respect of any part of the Cinema Hall. On 24th April 2003, the Motion was disposed of in view of the Consent Terms.

4. These facts which have been adverted to in the affidavit field by the Sixth Respondent, demonstrate that the petition as has

been filed is not a genuine recourse to the jurisdiction of the Court in the public interest. We decline to exercise jurisdiction on the ground alone. While dismissing the petition, we , however, clarify that we have, in the circumstances, not entered into the correctness of any of the submissions which have been sought to be advanced in the petition on merits. The Petition shall accordingly stand dismissed.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.